

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

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JERRY O'NEIL,

CAUSE NO. CV 08-91-M-DWM-JCL

Plaintiff,

vs.

FINDINGS AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

STATE BAR OF MONTANA,  
BETSY BRANDBORG, Bar Counsel for  
the State Bar of Montana,  
THE MONTANA SUPREME COURT  
COMMISSION ON THE UNAUTHORIZED  
PRACTICE OF LAW, ELEVENTH JUDICIAL  
DISTRICT COURT, THE MONTANA SUPREME  
COURT, MIKE McGRATH, Attorney General  
of the State of Montana,  
MONTANA DEPARTMENT OF PUBLIC HEALTH &  
HUMAN SERVICES, OFFICE OF FAIR HEARINGS,  
as members of the INTEGRATED BAR OF MONTANA,  
DEBORAH PLATT MAJORAS, Chair of the  
Federal Trade Commission, and  
THOMAS O. BARNETT, Acting Assistant  
Attorney General for Antitrust,

Defendants.

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Pending before the Court is Defendants Deborah Majoras and Thomas Barnett ("Federal Defendants") Motion to Dismiss filed under Fed. R. Civ. P. 12(b)(1). Ms. Majoras, Chair of the Federal Trade Commission, and Mr. Barnett, the Acting Assistant Attorney General for the Antitrust Division of the Department of Justice, request that the Court dismiss Plaintiff Jerry O'Neil's claims against them, and O'Neil's claims against the Federal

Trade Commission and the Department of Justice, based on the lack of jurisdiction over the claims.

On December 8, 2008, O'Neil filed his response to the Federal Defendants' Motion to Dismiss. O'Neil states that he concurs with the Federal Defendants' motion, and agrees that the Federal Defendants, and his claims against the Federal Trade Commission and the Department of Justice, should be dismissed.

Therefore, the Court hereby enters the following:

**RECOMMENDATION**

The Federal Defendants' Motion to Dismiss Federal Defendants for Lack of Subject Matter Jurisdiction should be **GRANTED**.

In view of O'Neil's concession to the propriety of dismissing the Federal Defendants, and in the interest of justice and expediting resolution of the pending Motion to Dismiss, **IT IS HEREBY ORDERED** that the parties shall file any objection they may have to this recommendation, as permitted under Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C), on or before **December 15, 2008**.

DATED this 8<sup>th</sup> day of December, 2008.

/s/ Jeremiah C. Lynch  
Jeremiah C. Lynch  
United States Magistrate Judge